

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RAYMOND-CARLOS QUINONEZ,

No. C 09-04272 SBA (PR)

Petitioner,

**ORDER DIRECTING RESPONDENT TO  
SHOW CAUSE WHY THE PETITION  
SHOULD NOT BE GRANTED AS TO  
PETITIONER'S ELEVEN EXHAUSTED  
CLAIMS**

v.

HARRINGTON, Warden,

Respondent.

Petitioner, a state prisoner, filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging the constitutional validity of his state conviction. His original petition alleged a total of twenty-two claims. The Court ordered Respondent to show cause why the petition should not be granted. Respondent filed a motion to dismiss the petition as not fully exhausted. Petitioner filed an opposition to the motion, and Respondent filed a reply.

In an Order dated March 31, 2011, the Court granted the motion to dismiss and ordered Petitioner to make an election regarding how he wanted to proceed with regard to his unexhausted claims. The Order required Petitioner to: (1) file an amended petition that includes only his exhausted claims, along with a request to dismiss his unexhausted claims and proceed with his exhausted claims, or (2) file a request for a stay of this matter while he exhausts his unexhausted claims in state court.

On May 19, 2011, Petitioner filed an amended petition in which he elected to dismiss his eleven unexhausted claims from the original petition, and proceed with only the exhausted claims. Accordingly, unexhausted claims six, nine, eleven and fourteen as well as claims sixteen through twenty-two are dismissed from this action.

In light of the dismissal of the eleven unexhausted claims, the petition appears to contain only the remaining eleven exhausted claims, which have been renumbered as claims one through

eleven in his amended petition and should be addressed on their merits. The Court now sets a new schedule below for the parties to file their briefs pursuant to the March 5, 2010 Order To Show Cause.

### CONCLUSION

1. Petitioner's claims six, nine, eleven and fourteen as well as claims sixteen through twenty-two from the original petition are DISMISSED based on his voluntary dismissal of those claims.

2. Respondent shall file with this Court and serve upon Petitioner, within **sixty (60) days** of the issuance of this Order, an Answer conforming in all respects to Rule 5 of the Rules Governing Section 2254 Cases, showing cause why a writ of habeas corpus should not be issued as to claims one through eleven in his amended petition. Respondent shall file with the Answer a copy of all portions of the relevant state records that have been transcribed previously and that are relevant to a determination of the issues presented by the petition.


3. If Petitioner wishes to respond to the Answer, he shall do so by filing a Traverse with the Court and serving it on Respondent within **thirty (30) days** of his receipt of the Answer. Should Petitioner fail to do so, the petition will be deemed submitted and ready for decision **thirty (30) days** after the date Petitioner is served with Respondent's Answer.

4. It is Petitioner's responsibility to prosecute this case. Petitioner must keep the Court and Respondent informed of any change of address and must comply with the Court's orders in a timely fashion. Petitioner must also serve on Respondent's counsel all communications with the Court by mailing a true copy of the document to Respondent's counsel.

5. Extensions of time are not favored, though reasonable extensions will be granted. Any motion for an extension of time must be filed no later than **ten (10) days** prior to the deadline sought to be extended.

IT IS SO ORDERED.

DATED: 5/25/11

  
SAUNDRA BROWN ARMSTRONG  
United States District Judge

United States District Court  
For the Northern District of California

1 UNITED STATES DISTRICT COURT  
2 FOR THE  
3 NORTHERN DISTRICT OF CALIFORNIA

4 RAYMOND-CARLOS QUINONEZ,

5 Plaintiff,

6 v.

7 HARRINGTON et al,

8 Defendant.  
9 \_\_\_\_\_/

Case Number: CV09-04272 SBA

**CERTIFICATE OF SERVICE**

10 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District  
11 Court, Northern District of California.

12 That on May 27, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said  
13 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said  
14 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle  
15 located in the Clerk's office.

16 Raymond-Carlos Quinonez E-15587  
17 Kern Valley State Prison  
18 P.O. Box 5103  
19 Delano, CA 93216-5103

20 Dated: May 27, 2011

Richard W. Wieking, Clerk  
By: LISA R CLARK, Deputy Clerk